

MOSER LAW FIRM, PC



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April 27, 2023

**VIA ECF**

Hon. Arlene R. Lindsay, USMJ  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
Central Islip, NY 11717

Re: *Zaldivar v Levent Company, Ltd and Muslim Levent*  
Case No. 22-cv-00065(GRB)(ARL)

Dear Judge Lindsay:

On October 13, 2022 the Court issued an order which stated, in part, that:

On or before November 14, 2022 [the defendant must produce] (1) The time sheets or other time records and payroll records in the Defendant's possession, custody, or control that pertain to work the Plaintiff performed during the period for which the Plaintiff claims unpaid wages; and (2) any written statement of policy, workplace rules, or handbook setting out the policies and practices on compensating workers performing the relevant type of work.<sup>1</sup>

\* \* \*

All parties must participate in mediation if they have been unable to settle the case on their own. If the parties choose to use a private mediator, they must also provide a specific date for the mediation.<sup>2</sup>

On January 24, 2023 the Defendants submitted a letter to the Court advising that the parties had agreed to the selection of Patrick McKenna, Esq., a member of the EDNY panel, to mediate the case. On January 25, 2023 the Court directed mediation to be completed by March 27, 2023.

Mediation was tentatively scheduled for February 16, 2023 but the Defendants could not confirm the date. On February 16, 2023 the Defendants advised that they would be unable to mediate until late March. The mediator (and Plaintiff's counsel) immediately advised of their

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<sup>1</sup> See ECF No. 10, ¶ 1.¶

<sup>2</sup> See ECF No. 10, ¶ 5.

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availability in late March. However, Defendants did not respond to this email or another follow up email asking for them to confirm the mediation date.

Defendants have also not provided the payroll records as directed.

Plaintiff respectfully requests an order directing the Defendants to produce the payroll records as directed by the Court on October 13, 2022 within one week, to participate in mediation within 30 days, and if Defendant declines to comply, granting Plaintiff leave to file a motion for a default judgment within 60 days.

Update to the Court on April 28, 2023. Yesterday I sent the above to opposing counsel and advised that if I did not hear from them I would be filing this with the Court. No response was received.

Respectfully Submitted,

*Steven J. Moser*  
Steven J. Moser

CC: All counsel of record via ECF